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Case 8407M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: Rohrbaugh et al. : Confirmation No. 2422
Serial No. 09/876,363 : Group Art Unit 1755
Filed June 7, 2001 : Examiner: Elizabeth D. Wood
Coating Compositions For Modifying Hard Surfaces

**RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT
UNDER 37 CFR § 1.143**

Assistant Commissioner for Patents

Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed on June 10, 2003, Applicants respectfully request a one (1) month extension of time, and further examination and reconsideration of the Application, in view of the accompanying remarks.

The Commissioner is authorized to charge any processing fee required to accomplish the purpose of this amendment to Deposit Account #16-2480 in the name of The Procter & Gamble Company.

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RESTRICTION REQUIREMENT

I. Election With Traverse

Applicants affirm the provisional election of Group I (Claims 1-19) and their traversal of the restriction requirement.

II. Basis For Traverse

According to MPEP § 803, a restriction requirement between patentably distinct inventions is only proper when

- 1.) The inventions are independent or distinct; and
- 2.) There is a serious burden on the Examiner if restriction is not required.

A rebuttable prima facie showing of a serious burden can be made if the Examiner shows by appropriate explanation either separate classification, status in the art, or a different field of search as defined in MPEP § 808.02.

In the Restriction Requirement Applicants' claims are grouped as follows:

- I. Claims 1-19, drawn to a coating composition, classified in class 106, subclass varies.
- II. Claims 20-57, drawn to a coating method, classified in class 427, subclass 407.1
- III. Claims 58-62, drawn to a composite structure, classified in class 428, subclass 340.
- IV. Claims 63-65, drawn to an article of manufacture, classified in class 118, subclass 300.

In order for a restriction requirement to be proper, the Examiner must not only establish that Applicants' inventions are independent and distinct, but there must be an undue burden on the Examiner if restriction is not required. Here, Applicants respectfully contend that there is no undue burden as an art search for any of Groups I-IV would be expected to yield the art that is pertinent to the patentability of each of Groups I-IV as the claims of each group use or require a "plurality of non-photoactive nanoparticles". In short, Applicants assert that the art search for Group I would yield the art that is pertinent to Groups I-IV. As such a search would suffice for Groups I-IV, Applicants respectfully request the present restriction requirement be withdrawn.

ELECTION OF SPECIES REQUIREMENT

I. Election With Traverse

Applicants provisionally elect lithium magnesium fluorosilicates with traverse. Such species of nanoparticle is disclosed in Applicants' specification at page 13, line 22.

II. Basis For Traverse

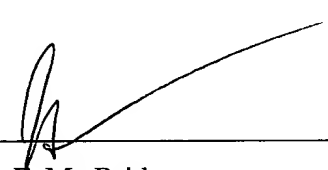
Applicants' contend that Claim 1 is generic to the species claimed in dependent claims 2-17 and Claim 18 is generic to the species claimed in dependent Claim 19. Applicants assert that Applicants' upon examination Applicant is entitled to at least a reasonable number of species and that a single species is less than a reasonable number of species.

CONCLUSIONS

In view of the amendments and remarks presented herein, Applicants respectfully request that the restriction requirement and election of species requirements be withdrawn and Claims 1-65 be allowed. In the event there are remaining issues, the Examiner is invited to call Applicants' undersigned attorney to discuss such issues.

Respectfully submitted,
Rohrbaugh et al.

By


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July 29, 2003

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